

**California Senate: Energy, Utilities and Communication Committee
Oversight Hearing, March 11, 2015**

***Ex Parte Requirements at the California Public Utility Commission:
A Comparative Analysis and Recommended Changes***

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1. Introduction

- Background of authors and what we studied

2. Overview of Ex Parte Rules

- Description of general purpose of ex parte rules; and
- CPUC's current ex parte rules

3. Major Findings

- CPUC's ex parte rules are an outlier compared to:
 - Other similar agencies in California
 - Federal energy regulators
 - Comparable regulatory agencies in other states
- CPUC's ex parte practice is inconsistent with the quasi-judicial nature of most major proceedings.
- CPUC's ex parte approach is not well-suited for a major economic regulatory agency and an agency with a high level of independence.
- CPUC's rules create confusion about prohibited communications and reporting requirements.

4. Major Recommendations

- Ex parte meetings should be prohibited in adjudicatory and ratesetting matters, and in rulemaking proceedings that are contested and rely on critical factual assumptions.
- The prohibition should be imposed on decision-makers.
- Decision-makers should have an affirmative duty to report communications.
- Procedural communications should be clearly defined and addressed only to ALJs.
- The definition of decision-maker should include: Commissioners, their in-office advisors, staff within the industry divisions advising the decision-maker, the Executive Director, the Chief and Assistant Chief ALJs, and the assigned ALJ.
- The rules should apply to all non-public substantive communications, even if from a non-party.